

LK:DMP
F.#2011R01888

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE SEARCH OF ONE
APPLE iPHONE TELEPHONE, MODEL #A1387,
PHONE NUMBER 347-200-4955, SERIAL
NUMBER DNPGF4NJDTC1 AND FCC ID NUMBER
BCG-E2430A.

No. 11-M-1276

AFFIDAVIT IN SUPPORT
OF SEARCH WARRANT

(T. 18, U.S.C.,
§§ 2252 and 2252A)

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EASTERN DISTRICT OF NEW YORK, SS:

AARON E. SPIVACK, being duly sworn, deposes and says
that he is a Special Agent with the Federal Bureau of
Investigation ("FBI"), duly appointed according to law and acting
as such.

1. On December 28, 2011, the Honorable Steven M. Gold
issued a search warrant authorizing FBI agents and other law
enforcement personnel to search inside "AN APPLE iPHONE BEARING
MODEL NUMBER A1387 AND FCC ID NUMBER BCG-E2430A" (the "Apple
iPhone"). A copy of the December 28, 2011 affidavit and search
warrant are attached hereto and incorporated herein as Exhibit
1.^{1/}

^{1/} The affidavit attached as Exhibit 1 was submitted "IN THE
MATTER OF THE SEARCH OF: (1) AN APPLE iPHONE BEARING MODEL NUMBER
A1387 AND FCC ID NUMBER BCG-E2430A, AND (2) INFORMATION
ASSOCIATED WITH THE EMAIL ADDRESSES CESCO1971@AOL.COM AND
1971FRANCO@GMAIL.COM." Based on that application, three separate
warrants were signed by Judge Gold: one for the Apple iPhone, one
for information associated with the email address
Cescol971@aol.com and one for information associated with the
email address 1971Franco@gmail.com. The instant application for
an extension of the warrant relates only to the search of the
Apple iPhone. The warrant has already been executed with respect

2. Also on December 28, 2011, Judge Gold signed an order directing that Apple, Inc. assist law enforcement agents in the examination of the iPhone with model number A1387 and FCC ID number BCG-E2430A (the "Order"). A copy of the December 28, 2011 application and Order are attached hereto and incorporated herein as Exhibit 2. FBI agents immediately contacted Apple to obtain its assistance, consistent with the Order signed by Judge Gold, to unlock the Apple iPhone so that it could be searched.

3. Apple responded that the information in the Order was insufficient to identify with precision the specific iPhone that Apple was to assist the FBI to unlock. As a result, the government obtained a second order that included the serial number and telephone number of the Apple iPhone, which FBI agents obtained from a forensic examination following the issuance of the search warrant. The second order, which Judge Gold signed on January 9, 2012, directed that Apple, Inc. assist law enforcement agents in conducting the search of one Apple iPhone Telephone, Model #A1387, phone number 347-200-4955, serial number DNPFGF4NJDTC1, and FCC ID number BCG-E2430A (the "Second Order"). A copy of the January 9, 2012 Order is attached hereto and incorporated herein as Exhibit 3.

4. After receiving the Second Order, Apple raised a concern that the Second Order, which directed Apple to assist

to the email addresses Cescol971@aol.com and 1971Franco@gmail.com.

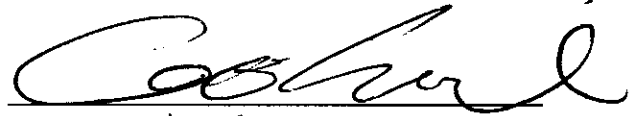
specifically by unlocking the Apple iPhone, might not be broad enough to cover Apple's assistance with respect to the latest versions of its iPhones, for which the user password needs to be "bypassed" rather than "unlocked." Following this affidavit is a proposed order directing Apple to assist agents in bypassing the Apple iPhone user's password, so agents may execute the attached search warrant.

5. The warrant issued by Judge Gold was valid until January 11, 2012. Because of the discussions that the FBI and the government had with Apple concerning first, the need for the precise telephone number and serial number of the Apple iPhone, and second, the need for the order to Apple to specify that Apple was directed to "bypass" the user password, the Apple iPhone could not be searched before the January 11, 2012 expiration of the search warrant.

WHEREFORE, your deponent respectfully requests that a search warrant be issued and the Court issue the attached order, which warrant and order would allow federal agents, with proper assistance from other law enforcement officers and from Apple, to do the following: (1) search, gain access to, and retrieve from ONE APPLE IPHONE TELEPHONE, MODEL #A1387, PHONE NUMBER 347-200-4955, SERIAL NUMBER DNPFG4NJDTC1 AND FCC ID NUMBER BCG-E2430A, which is currently in the possession of the FBI, electronically stored information, including photographs, names, addresses, and other information relating to child pornography, as set forth


more fully in Attachment B to the search warrant, all of which constitutes evidence, fruits, and instrumentalities of violations of Title 18, United States Code, Sections 2252 and 2252A.

Dated: Brooklyn, New York
January 23, 2012



Aaron Spivack
Special Agent, FBI

Sworn To Before Me This
23rd day of January, 2012


THE HONORABLE
UNITED STATES
EASTERN DISTRICT OF NEW YORK

S/ Pohorelsky

JSKY